

S. 805

Be it enacted, etc., That whoever, by virtue of his employment by or performance of services for the United States or by virtue of his employment by any person, firm, or corporation performing services for the United States or by virtue of his service in the armed forces of the United States, having obtained, or having had custody of, access to, or knowledge of (1) any information concerning the nature, preparation, or use of any code, cipher, or cryptographic or cryptanalytical system of the United States or any foreign government, or (2) any information concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or cryptanalytic purposes, or (3) any material which has been, or purports to have been, prepared or transmitted in or by the use of any code, cipher, or cryptographic system of the United States or any foreign government, or (4) any information concerning the cryptographic or cryptanalytic activities of the United States or any foreign government, or (5) any information which has been or purports to have been derived from cryptanalysis of messages transmitted by the United States or any foreign government, shall willfully, without authorization by the head of the department or agency by which such person was employed or in which he performed services at the time when he had custody of or access to or obtained knowledge of the above-described information or material, communicate, furnish, or transmit to another or publish any such information or material, shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both. Authorizations, as herein provided, shall be granted only in accordance with regulations prescribed by the President.

SEC. 2. Whoever, by virtue of his employment by or performance of services for any foreign government or by virtue of his service in the armed forces of any foreign government, having obtained, or having had custody of, access to, or knowledge of (1) any information concerning the nature, preparation, or use of any code, cipher, or cryptographic or cryptanalytical system of the United States, or (2) any information concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States for cryptographic or cryptanalytic purpose, or (3) any material which has been, or purports to have been, prepared or transmitted in or by the use of any code, cipher, or cryptographic system of the United States, or (4) any information concerning the cryptographic or cryptanalytic

activities of the United States, or (5) any information which has been or purports to have been derived from cryptanalysis of messages transmitted by the United States, shall willfully, without joint authorization by the Secretary of State, the Secretary of War, and the Secretary of the Navy communicate, furnish, or transmit to another or publish any such information or material, shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both.

SEC. 3. The term "foreign government" as used herein includes any person or persons acting or purporting to act for or on behalf of any military or naval force, faction, party, department, agency, or bureau of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States.

SEC. 4. (a) The terms "code," "cipher," and "cryptographic" as used herein include any secret writing, deception, mechanical or electrical device or other method used for the purpose of disguising or concealing the meaning of any communication.

(b) The term "cryptanalytic" as used herein includes all methods of interception and all methods of obtaining information of the contents of cryptographic communication.

SEC. 5. Nothing in this act shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America.

Calendar No. 1480

80TH CONGRESS
2d Session

S. 2680

[Report No. 1433]

IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 10), 1948

Mr. GURNEY introduced the following bill; which was read twice and referred to the Committee on Armed Services

MAY 28 (legislative day, MAY 20), 1948

Reported by Mr. BALDWIN, with amendments

[Omit the part struck through]

A BILL

To enhance further the security of the United States by preventing disclosures of information concerning the cryptographic systems and the communication intelligence activities of the United States.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That whoever shall communicate, furnish, transmit, or other-
- 4 wise make available to an unauthorized person, or publish,
- 5 or use in any manner prejudicial to the safety or interest
- 6 of the United States or for the benefit of any foreign gov-
- 7 ernment to the detriment of the United States any classified
- 8 information (1) concerning the nature, preparation, or use
- 9 of any code, cipher, or cryptographic system of the United

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1 States or any foreign government; or (2) concerning the
 2 design, construction, use, maintenance, or repair of any
 3 device, apparatus, or appliance used or prepared or planned
 4 for use by the United States or any foreign government for
 5 cryptographic or communication intelligence purposes; or
 6 (3) concerning the communication intelligence activities of
 7 the United States or any foreign government; or (4)
 8 obtained by the processes of communication intelligence from
 9 the communications of the United States or any foreign
 10 government, shall be fined not more than \$10,000 or
 11 imprisoned not more than ten years or both.

12 SEC. 2. (a) The term "classified information" as used
 13 herein shall be construed to mean information which, at the
 14 time of a violation under this Act, is, for reasons of national
 15 security, specifically designated by a United States Govern-
 16 ment agency for limited or restricted dissemination or dis-
 17 tribution.

18 (b) The terms "code", "cipher", and "cryptographic
 19 system" as used herein shall be construed to include in their
 20 meanings, in addition to their usual meanings, any method
 21 of secret writing and any mechanical or electrical device
 22 or method used for the purpose of disguising or concealing
 23 the contents, significance, or meanings of communications.

24 The term "cryptographic purposes" as used herein is corre-
 25 spondingly extended in the scope of its meaning.

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1 (c) The term "foreign government" as used herein
 2 shall be construed to include in its meaning any person or
 3 persons acting or purporting to act for or on behalf of
 4 any faction, party, department, agency, bureau, or military
 5 force of or within a foreign country, or for or on behalf
 6 of any government or any person or persons purporting to
 7 act as a government within a foreign country, whether or
 8 not such government is recognized by the United States.

9 (d) The term "communication intelligence" as used
 10 herein shall be construed to mean all procedures and methods
 11 used in the interception of communications and the obtain-
 12 ing of information from such communications by other than
 13 the intended recipients. The terms "communication intelli-
 14 gence activities" and "communication intelligence purposes"
 15 as used herein shall be construed accordingly.

16 (e) The term "unauthorized person" as used herein
 17 shall be construed to mean any person who, or agency which,
 18 is not authorized to receive information of the categories
 19 set forth in section 1 of this Act, by the President, or by
 20 the head of a department or agency of the United States
 21 Government which is expressly designated by the President
 22 to engage in communication intelligence activities for the
 23 United States.

24 SEC. 3. Nothing in this Act shall prohibit the furnish-
 25 ing, upon lawful demand, of information to any regularly

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1 constituted committee of the Senate or House of Representa-
 2 tives of the United States of America, or joint committee
 3 thereof.

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Mr. TAYLOR

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Calendar No. 1480

80TH CONGRESS
 2d Session

S. 2680

[Report No. 1433]

A BILL

To enhance further the security of the United States by preventing disclosures of information concerning the cryptographic systems and the communication intelligence activities of the United States.

By Mr. GUERNEY

May 17 (legislative day, May 10), 1948

Read twice and referred to the Committee on

Armed Services

May 28 (legislative day, May 20), 1948

Reported with amendments

Calendar No. 91

81ST CONGRESS
1ST SESSION

S. 277

[Report No. 111]

IN THE SENATE OF THE UNITED STATES

JANUARY 10, 1949

Mr. TYDINGS introduced the following bill; which was read twice and referred to the Committee on Armed Services

MARCH 11 (legislative day, FEBRUARY 21), 1949

Reported by Mr. JOHNSON of TEXAS, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To enhance further the security of the United States by preventing disclosures of information concerning the cryptographic systems and the communication intelligence activities of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That whoever shall *knowingly and willfully* communicate,
4 furnish, transmit, or otherwise make available to an unauthor-
5 ized person, or publish, or use in any manner prejudicial to
6 the safety or interest of the United States or for the benefit
7 of any foreign government to the detriment of the United
8 States any classified information (1) concerning the nature,
9 preparation, or use of any code, cipher, or cryptographic
10 system of the United States or any foreign government; or

1 (2) concerning the design, construction, use, maintenance,
2 or repair of any device, apparatus, or appliance used or
3 prepared or planned for use by the United States or any
4 foreign government for cryptographic or communication
5 intelligence purposes; or (3) concerning the communication
6 intelligence activities of the United States or any foreign
7 government; or (4) obtained by the processes of communi-
8 cation intelligence from the communications of ~~the United~~
9 ~~States~~ or any foreign government *knowing the same to have*
10 *been obtained by such processes*, shall be fined not more than
11 \$10,000 or imprisoned not more than ten years, or both.

12 SEC. 2. (a) The term "classified information" as used
13 herein shall be construed to mean information which, at the
14 time of a violation under this Act, is, for reasons of national
15 security, specifically designated by a United States Govern-
16 ment agency for limited or restricted dissemination or
17 distribution.

18 (b) The terms "code", "cipher", and "cryptographic
19 system" as used herein shall be construed to include in their
20 meanings, in addition to their usual meanings, any method
21 of secret writing and any mechanical or electrical device or
22 method used for the purpose of disguising or concealing the
23 contents, significance, or meanings of communications.

24 (c) The term "foreign government" as used herein
25 shall be construed to include in its meaning any person or

1 persons acting or purporting to act for or on behalf of any
2 faction, party, department, agency, bureau, or military force
3 of or within a foreign country, or for or on behalf of any
4 government or any person or persons purporting to act as a
5 government within a foreign country, whether or not such
6 government is recognized by the United States.

7 (d) The term "communication intelligence" as used
8 herein shall be construed to mean all procedures and methods
9 used in the interception of communications and the obtaining
10 of information from such communications by other than the
11 intended recipients.

12 (e) The term "unauthorized person" as used herein
13 shall be construed to mean any person who, or agency
14 which, is not authorized to receive information of the cate-
15 gories set forth in section 1 of this Act, by the President, or
16 by the head of a department or agency of the United States
17 Government which is expressly designated by the President
18 to engage in communication intelligence activities for the
19 United States.

20 SEC. 3. Nothing in this Act shall prohibit the furnishing,
21 upon lawful demand, of information to any regularly con-
22 stituted committee of the Senate or House of Representatives
23 of the United States of America, or joint committee thereof.

2. ENHANCE FURTHER SECURITY OF THE UNITED STATES

has been obtained by clandestine intercept and cryptanalysis. Further, it makes it a crime to reveal methods used by this Nation in breaking the secret codes of a foreign nation. It also prohibits under certain penalties the divulging of any information which may have come into this Government's hands as a result of such a code-breaking. The reason for the latter prohibition is to prevent the indication to a foreign nation that we had broken their code system.

At present two other acts protect this information, but only in a limited way. Those are the Espionage Act of 1917 and the act of June 10, 1933 (48 Stat. 122). Under the first, unauthorized revelation of information of this kind can be penalized only if it can be proved that the person making the revelation did so with intent to injure the United States. Under the second, only diplomatic codes and messages transmitted in diplomatic codes are protected. The present bill is designed to protect against publication or any other revelation, regardless of intent, of all important information affecting United States communication intelligence operations and all direct information about all United States codes and ciphers.

As the matter now stands, prevention of the disclosure of information of our cryptographic systems, exclusive of State Department codes, and of communication intelligence activities rests solely on the discretion, loyalty, and good judgment of numerous individuals. These individuals are not now prohibited from making disclosures which can be most damaging to the security of the United States. They are subject to the temptations of personal gain and the advantages of publicity in making sensational disclosures of the information within the purview of this act.

The purpose of the bill is well summarized in the quotation from the Joint Congressional Committee for the Investigation of the Attack on Pearl Harbor, which recommended, on page 253 of the report, that—

* * * effective steps be taken to insure that statutory or other restrictions do not operate to the benefit of an enemy or other forces inimical to the Nation's security and to the handicap of our own intelligence agencies. With this in mind, the Congress should give serious study to, among other things, * * * legislation fully protecting the security of classified matter.

This bill is an attempt to provide just such legislation for only a small category of classified matter, a category which is both vital and vulnerable, to an almost unique degree.

EXPLANATION OF THE BILL

The bill would make it a crime, punishable by not more than \$10,000 fine, or 10 years' imprisonment, or both, to reveal two categories of information, namely; (1) Information which would nullify the efforts of United States communication intelligence agencies, and (2) information which would permit foreign governments to read the secret official communications of the United States. Information of the first category is covered by the following phrases (qualifying "information"):

* * * concerning the nature, preparation, or use of any code, cipher, or cryptographic system of * * * any foreign government.
* * * concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by * * * any foreign government.

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